

Application No. 10/697,448
Response dated December 16, 2004
Reply to Office Action of October 5, 2004

REMARKS/ARGUMENTS

Claims 1 - 28 are presented for Examiner Goodman's consideration.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

By way of the Office Action mailed 10/05/2004, claims 1 – 28 stand rejected under 35 U.S.C. § 102 as allegedly being anticipated and thus unpatentable over U.S. Patent Number 6,644,153 to Gordon ("*Gordon*"). This rejection is respectfully **traversed** to the extent that it may apply to the claims.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987); M.P.E.P. §2131. In addition, "[t]he elements must be arranged as required by the claim." M.P.E.P. §2131 referencing *In re Bond*, 910 F.2d 831 (Fed. Cir. 1990); see also *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Also, "[t]he identical invention must be shown in the as complete detail as is contained in the . . . claim." M.P.E.P. §2131 (citing *Richardson*, 868 F.2d at 1236 (Fed. Cir. 1989)).

Gordon fails to set forth, either expressly or inherently, each and every element of Applicants' claims and therefore forms an improper rejection under § 102. Applicants' claims 1, 27, and 28 require, at least, nipping a first portion between a movable mechanical finger and a movable complementary surface and moving a second portion away from the first portion while the first portion is **maintained in contact between the movable mechanical finger and the movable complementary surface**. *Gordon*, teaches the use of a plurality of ejector elements to force the product and/or scrap material away from each other and outwardly and away from the die cylinder and the die board during the cutting and creating process. (5: 66 – 6: 2). The ejector elements are compressed as the sheet material moves through the nip area. When the cut piece of material leaves the nip, the ejector element expands and springs back to its original form, thereby forcing the cut piece of sheet material away from the cutting rules and away from the adjacent section of sheet material. (10: 5 – 13). The ejector elements of *Gordon* do **not** maintain a first portion in contact between the movable mechanical finger and the movable complementary surface as the second portion is moved away from the first portion as required by claims 1, 27 and 28, therefore Applicants' claims 1, 27, and 28 are not expressly or inherently anticipated. Claims 2 – 25 depend

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from claim 1 and are patentable for at least the reasons discussed above. Applicants respectfully request that this rejection be withdrawn.

Applicants' claim 26 requires at least one movable mechanical finger configured to contact the first portion of the moving substrate and **nip the first portion** in coordination with the movable complementary surface **as the second portion moves away from the first portion**. *Gordon* fails to teach a movable mechanical finger configured to nip a first portion in coordination with a complementary surface as the second portion moves away from the first portion. In contrast, *Gordon* teaches ejector elements that are configured to spring back (after compression) and force the cut piece of sheet material away from the cutting rules and consequently away from the ejector elements. Therefore, *Gordon* fails to expressly or inherently anticipate Applicants' claim 26 and therefore the rejection as to this claim should be withdrawn.

For the reasons stated above, it is respectfully submitted that all of the claims are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 920-721-3016.

Respectfully submitted,

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